Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014

Message Text

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PAGE 01 PARIS 06787 01 OF 02 250509Z
ACTION IO-14

INFO OCT-01 ISO-00 AF-10 ARA-10 EA-10 EUR-12 NEA-10
CIAE-00 CU-04 INR-10 NSAE-00 AID-05 USIA-06 L-03
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R 242048Z FEB 78
FM AMEMBASSY PARIS
TO SECSTATE WASHDC 7589

LIMITED OFFICIAL USE SECTION 01 OF 02 PARIS 06787

NESCO

E.O. 11652: N/A
TAGS: AORG, PORG, UNESCO
SUBJECT: UNESCO: FRENCH PERMREP'S VIEWS ON EXECUTIVE BOARD MEMBERSHIP

REF: STATE 043233

1. ON FEBRUARY 21, DELOFF DISCUSSED AMBASSADOR VALERY'S VIEWS ON REELECTION OF EXBD MEMBERS WITH UNESCO LEGAL ADVISER CLAUDE LUSSIER.

2. BEGIN LUSSIER'S COMMENTS: THE PROHIBITION ON AN EXBD MEMBER'S IMMEDIATELY SUCCEEDING HIMSELF TO A SECOND TERM (ARTICLE V. A. 3 OF THE CONSTITUTION) CLEARLY APPLIES TO THOSE BOARD MEMBERS ELECTED BY THE GENERAL CONFERENCE. IT IS NOT CLEAR THAT THIS PROHIBITION APPLIES TO PERSONS APPOINTED BY THE BOARD TO FILL UNEXPIRED PORTIONS OF TERMS. LUSSIER MAINTAINS THAT THESE INTERIM MEMBERS ARE NOT "ELECTED." BETRAYING HIS WESTERN DEMOCRATIC BIAS, HE ASKED "HOW CAN YOU HAVE AN ELECTION WITH ONLY ONE CANDIDATE, AND FOR THE REPLACEMENT OF A BOARD MEMBER, THERE IS ONLY
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PAGE 02 PARIS 06787 01 OF 02 250509Z

ONE CANDIDATE?" (ARTICLE V. A. 4 (A) SAYS THAT A REPLACEMENT SHALL BE "APPOINTED.") THUS, IT IS UNCLEAR THAT THE PROHIBITION ON IMMEDIATE SELF-SUCCESSION IS LINKED TO THOSE PERSONS WHO ARE "APPOINTED" RATHER THAN "ELECTED."

3. HOWEVER, TWO LEGAL COMMITTEE DECISIONS ARE RELEVANT.

Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014

Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014

IN 1954, WHEN THE MONTEVIDEO GENERAL CONFERENCE CHANGED THE BOARD FROM A GROUP OF INDIVIDUALS REPRESENTING ONLY THEMSELVES TO A GROUP OF INDIVIDUALS REPRESENTING THEIR GOVERNMENTS, THE EXISTING EXECUTIVE BOARD WAS DISBANDED AND A NEW BOARD WAS ELECTED. THIS CUT OFF SOME PREVIOUS MEMBERS WHO STILL HAD TWO YEARS TO SERVE ON THE OLD BOARD, AND SOME OF THEM DESIRED TO SEEK ELECTION TO THE NEW BOARD. THE LEGAL COMMITTEE DECIDED THEN THAT A PARTIAL TERM SERVED EQUALED A FULL TERM SERVED FOR PURPOSES OF THAT SINGLE ELECTION, AND THE PREVIOUS MEMBERS WERE INELIGIBLE TO RUN IMMEDIATELY. IN 1956, IN CONNECTION WITH THE DESIRE OF A SINGLE INDIVIDUAL TO RUN, THE LEGAL COMMITTEE DECIDED THAT THE PRINCIPLE OF "PARTIAL TERM EQUALS FULL TERM" DEVELOPED FOR THE 1954 ELECTION APPLIED TO THE BOARD IN ITS NEW, REPRESENTATIVES OF GOVERNMENTS, FORM.

4. THE CONTEXTS IN WHICH THESE TWO LEGAL COMMITTEE DECISIONS WERE MADE WERE NOT IDENTICAL TO THAT IN WHICH VALERY FINDS HIMSELF, THAT IS, AN INDIVIDUAL APPOINTED TO COMPLETE AN UNEXPIRED TERM AND WISHING TO RUN IMMEDIATELY FOR A FOUR-YEAR FULL TERM, BUT THESE DECISIONS, NEVERTHELESS, HAVE INFLUENCED THINKING ON THE VALERY-TYPE PROBLEM.

5. THERE IS NO CASE IN WHICH A MEMBER APPOINTED TO
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COMPLETE A TERM HAS EVER SOUGHT TO RUN FOR IMMEDIATE ELECTION ON COMPLETION OF THAT PARTIAL TERM.

6. THERE ARE STRONG, BUILT-IN FORCES OPERATING AGAINST ANY FURTHER CHANGES IN THE NATURE OF THE BOARD MEMBERS, AS WAS DEMONSTRATED BY THE DEFEAT OF THE SWEDISH PROPOSAL AT THE 19TH GENCONF TO MAKE GOVERNMENTS MEMBERS OUTRIGHT RATHER THAN THROUGH PERSONAL REPRESENTATIVES. AT ANY GIVEN TIME, INCUMBENT MEMBERS FEAR THAT A MAJOR CHANGE IN CONCEPT OF THE NATURE OF A BOARD MEMBER MIGHT LEAD TO THEIR BEING REMOVED BY THEIR OWN GOVERNMENTS, SO THEY VOTE AGAINST CHANGE. IN TERMS OF A GENERAL CONFERENCE AMENDMENT, ON WHICH ALL MEMBER STATES HAVE THE RIGHT TO VOTE (RATHER THAN JUST THOSE REPRESENTED ON EXBD) THE PEOPLE WHO ARE SEEKING ELECTION TO THE BOARD ARE SIMILARLY CONCERNED THAT A CHANGE IN CONCEPT MIGHT HARM THEIR CHANCES, AND THEY OPPOSE. IT WOULD BE

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PAGE 01 PARIS 06787 02 OF 02 250508Z
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LIMITED OFFICIAL USE SECTION 02 OF 02 PARIS 06787

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DIFFICULT TO GET THROUGH AN AMENDMENT OF THE KIND VALERY HAS IN MIND. HE WOULD HAVE TO GET SOMEONE ELSE TO INTRODUCE IT (FOR REASONS OF MODESTY?), HE HAS ONLY ONE MONTH IN WHICH TO GET IT DONE (MUST BE CIRCULATED SIX MONTHS IN ADVANCE OF THE CONFERENCE), AND NOBODY ELSE IS REALLY INTERESTED IN HIS PERSONAL QUEST. END OF LUSSIER'S COMMENTS.

7. JOHN FOBES, ON THE OTHER HAND, WHEN QUERIED BY THE AGENCY DIRECTOR IN MAY 1977, STATED WITHOUT EQUIVOCATION THAT A MEMBER APPOINTED TO COMPLETE ANOTHER MEMBER'S TERM WAS NOT RPT NOT ELIGIBLE TO BE ELECTED FOR THE FULL TERM IMMEDIATELY FOLLOWING.

8. IT WOULD APPEAR, THEREFORE THAT:
A) PRACTICE HAS BEEN NOT TO DO WHAT VALERY WANTS TO DO.

B) THERE IS A WIDESPREAD ASSUMPTION THAT WHAT VALERY WANTS IS UNCONSTITUTIONAL.
C) THE EXPERTS DISAGREE ON WHAT THE CONSTITUTION MEANS IN THIS QUESTION.
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PAGE 02 PARIS 06787 02 OF 02 250508Z

D) IF VALERY TRIES TO GO FOR A CONSTITUTIONAL

Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014

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ADMENDMENT, HE IS NOT LIKELY TO SUCCEED.

9. PERMDEL WILL NOT GIVE VALERY ANY ENCOURAGEMENT.
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